



**State of New Hampshire**  
**PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

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AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO, LOCAL 1801, LONDONDERRY POLICE	:	
	:	
Complainant	:	CASE NO. A-0454:2
	:	
v.	:	DECISION NO,82-38
	:	
LONDONDERRY POLICE DEPARTMENT LONDONDERRY, NEW HAMPSHIRE	:	
	:	
Respondent	:	

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APPEARANCES

Representing the Complainant, Local 1801, AFSCME:

James C. Anderson, Executive Director, Council #68, AFSCME  
Paul T. Dowd, Patrolman

Representing the Respondent, Londonderry Police Department:

Gary W. Wulf, Chief Negotiator  
William D. Cox, Administrative Assistant  
Frederick Ball, Police Chief

Also present:

Robert H. Kolbe, Police Department  
Charles H. Webster, Police Department

BACKGROUND

Local 1801 of the American Federation of State, County and Municipal Employees, AFL-CIO (AFSME) charged the Londonderry Police Department with an unfair labor practice stemming from the February 7, 1982 reorganization of the Londonderry Police Department (LPD). This reorganization allegedly was the consequence of a grievance arising on November 22, 1981, under the promotional procedure negotiated into the existing collective bargaining agreement between AFSCME and LPD dated April 1, 1981.

LPD responded that the organizational changes were on a trial basis and protected under management rights. All charges of motivation arising from the November 22, 1981 grievance were completely denied.

A hearing on the merits before the Public Employee Labor Relations Board (Board) on May 13, 1982 presented the facts and issues central to the

allegations.

FINDINGS & DECISION

-- Under the provisions of RSA 273-A:6, 1, the Board dismisses the portions of the complaint alleging violations of RSA 273-A:5, 1 (c) and (d). That complaint is inappropriately filed pending action by the appropriate legislative body implementing an April 23, 1982 arbitrator's decision on the November 22, 1981 grievance.

-- Under the provisions of RSA 273-A:6, I, II and VI, the Board finds the Londonderry Police Department guilty of unfair labor practice in violation of RSA 273-A:5, 1 (a) and (b).

-- In reaching this determination, the Board recognizes the Public Employer's right to establish managerial policies within its exclusive prerogative. The right of the Public Employer to reorganize its structure is not in issue. The failure to negotiate the impact of reorganization on the collective bargaining agreement between AFSCME, Local 1801 and LPD is what gives rise to the unfair labor practice. The Board rejects the argument of permanency as a controlling factor in the negotiability of changes affecting the terms and conditions of employment. The controlling factor is impact without regard to longevity, and the intent to foster harmonious and cooperative relations between public employers and employees.

-- In support of our findings, the Board determines that the Londonderry Police Department has created a new organizational position entitled "Watch Commander/Sergeant". This position is distinguishable from the position of Sergeant in the existing collective bargaining agreement. Further, this position is distinguishable from the description the new position of senior sergeant in the new organizational structure.

ORDER

Therefore, the Londonderry Police Department is ordered to post a notice in a conspicuous place in all work areas covered by Local 1801 indicating the following:

"AFSCME, Local 1801 is the exclusive representative for all bargaining unit employees. As such, it is the exclusive agent for negotiating all proposals to change the terms and conditions of employment for all bargaining unit employees. Any attempt to avoid good faith negotiations for changes in terms and conditions of employment is a violation of New Hampshire Law."

It is further ordered that the Watch Commander/Sergeant position remains within the bargaining unit and that the Londonderry Police Department shall

enter into good faith negotiations with Local 1801, AFSCME, within thirty (30) days of the date of this order.

These negotiations shall address all issues impacted by any existing or proposed change of organizational structure subsequent to April 1, 1981. Should the parties reach impasse, the issues shall be promptly remanded to the Public Employee Labor Relations Board for resolution and/or determination.



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ROBERT E. CRAIG, Chairman  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 3rd day of June, 1982.

By unanimous vote. Chairman Robert E. Craig presiding. Present and voting, Members Seymour Osman, David L. Mayhew and Russell F. Hilliard. Also present, Executive Director, Evelyn C. LeBrun and Alternate Labor Representative, Russell Verney.